

STATE OF NEW HAMPSHIRE

DEPARTMENT OF STATE

IN THE MATTER OF:)
)
Local Government Center, Inc. *et al*)
)
RESPONDENTS _____)

Case No.: 2011000036

ORDER REGARDING STATUTORILY REQUIRED REIMBURSEMENT OF COSTS AND FEES TO THE STATE BY THE RESPONDENT LOCAL GOVERNMENT CENTER ENTITIES

1. On August 16, 2012 a final order was issued by the undersigned presiding hearing officer in the above captioned matter.

2. Among other provisions, the order addressed the issue of the payment of legal costs and fees expended by the office of the secretary of state in a manner to allow the parties to confer and to attempt mediation to resolve any disagreement regarding the amount to be paid by the Local Government Center entities pursuant to RSA 421-B:26. Paragraph #18 of the order reads as follows:

The Local Government Center, Inc., Local Government Center Health Trust, LLC and the Local Government Center Property Liability Trust, LLC are found jointly and severally liable for the costs of the investigation in this matter, and all related proceedings, including reasonable attorney fees, pursuant to RSA 5-B:4-a, V and are ordered to pay same. The BSR and these respondents shall confer within 30 days of the date of this order to determine an agreed upon amount of costs to be paid. Failing agreement, the parties shall agree upon a mediator to submit the question of costs and fees as addressed in RSA 5-B:4-a due to the office of the secretary of state and failing the issue being successfully mediated within 45 days of the date of this order, the BSR shall submit to the hearing officer within 45 days of the date of this order its itemization of costs for which it seeks reimbursement.

3. On September 14, 2012 the Petitioner Bureau of Securities Regulation (“BSR”) filed a Motion for Approval of Fees and Costs accompanied by an itemization of costs of investigation and reasonable attorney costs and fees and affidavit attesting to the amount of \$571,398.86 as the amount sought to be paid by the respondent LGC entities.

4. On October 15, 2012 the BSR filed a supplementary motion requesting an order for payment of its costs and fees as proposed or for a hearing to be conducted on its request.

5. On October 16, 2012 the Local Government Center and its related respondents filed a Petition with the Supreme Court asking it to accept an appeal of the August 16, 2012 administrative order.

6. What is obvious to this presiding officer is that both parties will now continue to expend additional funds to meet the costs and fees required to participate in the appeal petitioning process allowed to parties that attempt to obtain further action in this matter and in the appeal itself, should one be granted.

7. Given the filing of its petition for appeal at this time the LGC has assured that the BSR will incur additional costs and fees in fulfilling the requirements of RSA 5-B, thereby causing any fact-based decision or hearing related to final costs and fees to be premature.

I have reviewed the contents of both of the motions, the accompanying itemization and affidavit and I am now with information that a petition for appeal has, in deed, been sought by the LGC. A hearing as requested at this time would focus on only a portion of what will become all costs and fees subject to reimbursement and would not serve the principles of judicial economy and therefore this decision is made without the conduct of such a hearing.

Being in possession of sufficient facts necessary to this decision, it is hereby ordered that,

- A. The BSR motions dated September 16, 2012 and October 15, 2012 are determined not to be ripe for determination at this time and the motions are therefore denied for the present time, without prejudice, and providing further that the BSR shall not be limited to any amounts, as contained within its present demand and motions, that may be properly sought under the statutory provisions in any later proceeding.
- B. In the event that the Supreme Court elects not to accept any petition for appeal, such hearing on reimbursement of costs and fees shall be scheduled upon request of the BSR or the LGC entities.
- C. Nothing in this instant order prevents the parties from mutually agreeing to an amount or limit of an amount to be reimbursed by any respondent or from reaching agreement through the utilization of the less expensive mediation process provided for in the original final administrative order of August 16, 2012 whether such agreed figure is made contingent on further proceedings or not.
- D. All provisions of the original order not inconsistent with this order do remain in full force and effect.

So Ordered this 17th day of October, 2012.


Donald E. Mitchell, Esq.
Presiding Officer

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